CLERK'S COPY.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1931

No. 805

JOHN J. CARROLL, PETITIONER,

vs.

CHARLES U. BECKER, SECRETARY OF STATE OF THE STATE OF MISSOURI, JEFFERSON CITY, MISSOURI.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSOURI

PETITION FOR CERTIORARI FILED MARCH 18, 1932

CERTIORARI GRANTED MARCH 22, 1932

(36,619)

(36,619)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1931

No. 805

JOHN J. CARROLL, PETITIONER,

vs.

CHARLES U. BECKER, SECRETARY OF STATE OF THE STATE OF MISSOURI, JEFFERSON CITY, MISSOURI

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSOURI

INDEX

	Original	Print
Proceedings in supreme court of Missouri	1	1
Caption	1	1
Order for alternative writ of mandamus	1	1
Minute entry of filing of amended petition	2	1
Amended petition for mandamus	3	1
Exhibit "A"—Record of proceedings of 56th General Assembly of Missouri	15	11
Order for amended alternative writ	45	44
Minute entry of filing of return	45	44
Return to writ	46	44
Exhibit "A"—Proceedings of Senate and Governor's veto message	53	50
Minute entry of filing of motion for judgment on the pleadings	56	52
Motion for judgment on the pleadings	56	52
Minute entry of submission, etc	57	53
Judgment	57	53
Opinion, White, J	59	53
Præcipe for transcript of record	70	62
Clerk's certificate (omitted in printing)	72	
Order allowing certiorari	73	64

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., MARCH 18, 1932

[fol. 1] UNITED STATES OF AMERICA,
State of Missouri, ss:

Be it remembered that, heretofore, to-wit, on the 26th day of October 1931, there was filed in the office of the Clerk of the Supreme Court of the State of Missouri a petition for a writ of mandamus in a cause entitled State of Missouri, at the relation of John J. Carroll, Relator, against Honorable Charles U. Becker, Secretary of State, of the State of Missouri, Respondent, Numbered 31,668.

IN SUPREME COURT OF MISSOURI

No. 31668

STATE ex Rel. JOHN C. CARROLL, Rel.,

vs.

CHARLES U. BECKER, Secy. of State, Resp.

ORDER FOR ALTERNATIVE WRIT OF MANDAMUS—Oct. 27, 1931

Now at this day, the Court having considered the petition of relator filed herein for a writ of mandamus, doth order that an alternative writ of mandamus issue herein, as prayed, directed to said respondent, said writ to be returnable November 6, 1931, in court en banc.

[fol. 2] IN SUPREME COURT OF MISSOURI

[Title omitted]

MINUTE ENTRY—Nov. 4, 1931

Comes now the relator, by attorney, and by leave of court files herein an amended petition for a writ of mandamus.

[fol. 3] IN SUPREME COURT OF MISSOURI

[Title omitted]

AMENDED PETITION FOR MANDAMUS

This Relator respectfully represents and shows to this Honorable Court that he is a citizen, inhabitant and elector

of the State of Missouri, and resides in the City of St. Louis, Missouri, in the Fifth Ward of said City, and that he is now 28 years of age, and is, and since the time of his birth, has been a citizen of the United States of America, and that he has resided in said State of Missouri since the time of his birth, and that Respondent, Charles U. Becker, is the duly qualified and acting Secretary of State of the State of Missouri, and that his official acts are done and performed in the State Capitol in Jefferson City, Cole County, State of Missouri;

That under and by virtue of the laws of the State of Missouri and the United States of America, and the Constitution of the State of Missouri, and under and by virtue of Section 2 of Article I of the Constitution of the United States, this Relator is qualified and entitled to be a candidate for the nomination and election to the office of Representative in Congress from the State of Missouri, and under and by virtue of Section 1 of the Fourteenth Amendment to the Constitution of the United States, this Relator is entitled to the equal protection of the laws of the State of Missouri and of the United States, and Relator further [fol. 4] states that the hereinafter mentioned refusal of Respondent to receive and accept and file the hereinafter mentioned written declaration of relator's candidacy for the office of Representative from and of the Tenth Congressional District of the State of Missouri in the House of Representatives of the Congress of the United States, violates this Relator's rights under and by virtue of Section 2 of Article I of the Constitution of the United States, and also in violation of the Fourteenth Amendment to the Constitution of the United States, abridges the privileges and immunities of this Relator, and deprives Relator of the equal protection of the laws of the State of Missouri and of the United States of America;

That by the terms and provisions of Section 21 of an Act of Congress approved June 18th, 1929, entitled "An Act to Provide for the Fifteenth and Subsequent Decennial Censuses and To Provide for Apportionment of Representatives in Congress," all other laws and parts of laws inconsistent with the provisions of said act were repealed, and that pursuant to Section 22, Subdivision (a) of said Act, the President of the United States on December 4th, 1930, transmitted the following message to Congress:

"To the Congress of the United States: In compliance with the provision of Section 22 (A) of the Act approved June 18, 1929, I transmit herewith a statement prepared by the Bureau of the Census, Department of Commerce giving the whole number of persons in each state, exclusive of Indians not taxed, as ascertained under the Fifteenth Decennial Census of population and the number of representatives to which each state should be entitled under an apportionment of the existing number of representatives by the method known as the Method of Major Fractions which was the method used in the last preceding apportionment and also by the method known as the Method of Equal Proportions.

Herbert Hoover, December 4, 1930.

The White House, Washington, D. C.

[fol. 5] Relator further states that the statement accompanying the President's said message, in so far as it relates to the State of Missouri, is as follows, to-wit:

"Population as enumerated April 1st, 1930	3,629,367
Indians not taxed	257
Population basis of Apportionment	3,629,110
Apportionment of 435 Representatives by a Method of Major Fractions used in last preceding apportionment	13
Equal Proportions	13"

That as hereinbefore set forth, said statement accompanying the President's said message sets forth and shows that the State of Missouri shall be entitled in the 73rd Congress of the United States and each Congress thereafter until the taking effect of a reapportionment under said Act of Congress or subsequent statute, to thirteen Representatives in the House of Representatives of the Congress of the United States, and reference is hereby made to said Act of Congress of June 18th, 1929, last mentioned, and said message of the President of the United States thereunder with the same force and effect as if said Act and said message were hereat set out in full;

That pursuant to said Act of Congress last mentioned William Tyler Page, Clerk of the House of Representatives of the United States on or about March 6, 1931, transmitted

to the Governor of the State of Missouri the following certificate:

"House of Representatives, Clerk's Office, Washington, D. C.

I, William Tylen Page, Clerk of the House of Representatives of the United States, hereby certify pursuant to Section 22, Subdivision (B) of the Act of the Congress of the United States of America, entitled 'An Act to Provide for the Fifteenth and Subsequent Decennial Census and to Provide for Appointment of Representatives in Congress,' approved June 18, 1929, that the State of Missouri shall be entitled in the Seventy-third (73rd) Congress and in each Congress thereafter until the taking effect of a re- [fol. 6] apportionment under said Act or subsequent statute, to thirteen (13) representatives in the House of Representatives of the Congress of the United States.

In witness whereof I hereunto affix my name and the seal of the House of Representatives of the United States of America this 4th day of March A. D., 1931, in the City of Washington, District of Columbia.

William Tyler Page, Clerk of the House of Representatives of the United States. (Official Seal of the House of Representatives.)"

That the Congress of the United States is not now in session and has not been called in special session;

That the Fifty-sixth (56th) General Assembly of the State of Missouri duly convened on January 7th, 1931, and adjourned *sine die* on the 15th day of June, 1931, and the Legislature of the State of Missouri is not now in session and has not been called in special session, and that at all times herein mentioned between the 7th day of January, 1931, and the 15th day of June, 1931, the said Fifty-sixth General Assembly of the State of Missouri was duly in session, and the Senate and the House of Representatives of the State of Missouri were each and both duly in session;

That on April 9, 1931, and after the same had been duly prepared, presented and read, all in accordance with the laws of the State of Missouri, and the rules and provisions of the Senate of the State of Missouri and after the same had been duly reported upon by a committee of said Senate and after the same had been ordered by said Senate en-

grossed and printed for the use of its members, and after the same had been engrossed and printed for the use of the members of said Senate and after the same had been read on three different days in said Senate, there was duly passed [fol. 7] by said Senate and then and there so declared by the President of said Senate a Bill as amended for an Act entitled "An Act to Repeal Sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727, and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and Congressional districts and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725, and said Bill as amended thereupon became and is now known as "Committee Substitute for Senate Bills 95, 141 and 147, Fifty-sixth (56th) General Assembly of Missouri," and in words and figures is as follows, to-wit:

"An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section 1. That section 10712 of the Revised Statutes of Missouri, 1929, be and the same is hereby repealed and a new section enacted in lieu thereof, to be known as section 10712, and to read as follows:

Sec. 10712. The State of Missouri, is hereby divided into thirteen congressional districts, the legal voters of each district to elect one member of Congress of the United States.

Section 2. That sections 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727, and 10728 of the Revised Statutes of Mis-[fol. 8] souri, 1929, be and the same are hereby repealed and 13 new sections enacted in lieu thereof, to be known as

sections 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and to read as follows:

Sec. 10713. The first district shall be composed of the counties of: Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Clark, Lewis, Marion, Ralls, Pike, Lincoln, Montgomery, Warren, St. Charles, Franklin and Gasconade.

Sec. 10714. The second district shall be composed of the counties of: Harrison, Daviess, Mercer, Grundy, Livingston, Carroll, Putnam, Sullivan, Linn, Chariton, Saline, Schuyler, Adair, Macon, Randolph and Howard.

Sec. 10715. The third district shall be composed of the counties of: Atchison, Holt, Nodaway, Andrew, Buchanan, Platte, Worth, Gentry, Clinton, Clay, DeKalb, Caldwell and Ray.

Sec. 10716. The fourth district shall be composed of: All that part of Kansas City included in Wards 9, 10, 12, 14 and 16, as now constituted, and the following Townships in Jackson County, Blue, Fort Osage, Sni-A-Bar, Van Buren, Prairie and Brooking, and the counties of Cass, Bates, Vernon and Barton.

Sec. 10717. The fifth district shall be composed of: All that part of Kansas City included in Wards 1, 2, 3, 4, 5, 6, 7, 8, 11, 13, and 15, as now constituted, and Washington Township in Jackson County.

Sec. 10718. The sixth district shall be composed of the counties of: Lafayette, Johnson, Henry, St. Clair, Pettis, Benton, Hickory, Cooper, Boone, Morgan, Moniteau, Cole, Camden, and Miller.

Sec. 10719. The seventh district shall be composed of the counties of: St. Louis county, Jefferson, Ste. Genevieve and Saint Francois.

Sec. 10720. The eighth district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards 11, 12, 13, 10, 23, 24 and 25, [fol. 9] and Precincts 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of Ward 28.

Sec. 10721. The ninth district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards 1, 2, 3, 4, 18, 21, 22, 26 and 27; Precincts 6, 7, and 8 of Ward 19; and Precincts 9, 10, 27 and 28 of Ward 28.

Sec. 10722. The tenth district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards 5, 6, 7, 8, 9, 14, 15, 16, 17 and 20; and Precincts 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Ward 19.

Sec. 10723. The eleventh district shall be composed of the counties of: Perry, Madison, Bollinger, Cape Girardeau, Wayne, Butler, Stoddard, Scott, Mississippi, New Madrid, Pemiscot, Dunklin and Ripley.

Sec. 10724. The twelfth district shall be composed of the counties of: Greene, Dallas, Webster, Laclede, Wright, Maries, Pulaski, Texas, Phelps, Crawford, Washington, Dent, Iron, Shannon, Reynolds, Oregon and Carter.

Sec. 10725. The thirteenth district shall be composed of the counties of: Cedar, Polk, Dade, Jasper, Lawrence, Newton, McDonald, Barry, Stone, Christian, Taney, Douglas, Ozark, and Howell."

That thereafter, to-wit, on April 13, 1931, the House of Representatives of the Legislature of the State of Missouri was in session duly assembled and thereupon duly received from said Senate of the State of Missouri said Bill for an Act hereinbefore set forth which, as aforesaid, was Senate Committee Substitute for Senate Bills 95, 141 and 147 and of April 15, 1931, and while said House of Representatives was in session and duly assembled as aforesaid and after said Bill for an Act had been duly reported upon by a committee of said House of Representatives and after it had been read on three different days in said House of Rep- [fol. 10] resentatives said bill for an Act was duly passed by said House of Representatives and then and there so declared, and on April 17, 1931, the said Senate was duly and regularly informed by the House of Representatives that it had taken up and passed said "Committee Substitute for Senate Bills 95, 141 and 147" and on said 17th day of April, 1931, the said Bill having been duly en-

rolled, the Chairman of the said Senate's Committee on Enrolled Bills reported to said Senate duly assembled that said Committee Substitute for Senate Bills 95, 141 and 147 had been compared with the original and amendments proposed and that said Committee had examined the records of both the said House of Representatives and the said Senate and that the same was properly enrolled and thereupon on said date the President of said Senate and while the same was duly assembled in open session as aforesaid, announced that all other business would be suspended and that the bill having passed both branches of the 56th General Assembly of the State of Missouri would be read at length and that if there were no objections said bill would be signed by the Chairman to the end that it would become a law and thereupon said Bill was read at length by the Secretary of said Senate and no objections being made the President of said State Senate did sign the same to the end that it became a law, such signing being in the presence of said Senate in open session in accordance with law in such cases made and provided;

And on April 24, 1931, in open session of said House of Representatives and while the same was duly assembled, the Secretary of said Senate did come into and before said House of Representatives and did present to the Speaker of said House of Representatives said Bill which had prior thereto as aforesaid been passed, approved and enacted by both the said House of Representatives and the said Senate and the same was presented as aforesaid to the Speaker of said House of Representatives as passed and approved by [fol. 11] both the said House and Senate and authenticated as truly enrolled and thereupon the Speaker of said House of Representatives before affixing his signature thereto did suspend all other business and order and declare that said Committee Substitute for Senate Bills 95, 141 and 147 be read and thereupon the same was read at length and no objections being made, the Speaker of the said House of Representatives in open session did sign the same to the end that it became a law of the State of Missouri, such signing being in the presence of said House of Representatives duly assembled and in open session, all in accordance with the laws of Missouri in such cases made and provided and;

This relator further represents that said Bill and Act and the provisions therein contained have been duly enacted and passed by the Legislature of the State of Missouri as aforesaid and at all times herein mentioned since said enactment, the provisions contained in said Bill have been and are valid and existing laws of the State of Missouri and said Bill and Act has been filed and is now on file in the office of the Secretary of the State of Missouri.

This relator further represents that all of the proceedings in said Senate and House of Representatives with reference to the introduction and passage of said Bill and the enactment of said Act are more fully set forth in a true and certified copy of the record of the proceedings of the 56th General Assembly of Missouri relative thereto which said copy of said record is hereto attached and designated "Relator's Exhibit 'A' " and is hereby made a part hereof;

This relator further represents that as set forth hereinabove the Legislature of the State of Missouri in the 56th General Assembly did divide the State of Missouri into thirteen (13) congressional districts and provide that the legal voters of each district should elect one member of Congress of the United States and did designate by the terms and provisions of said Bill and by a section therein [fol. 12] designated as Section 10722 of the Revised Statutes of Missouri, 1929, that the Tenth District should be composed of the following wards and precincts as now constituted in the City of St. Louis, Missouri, to-wit: Wards 5, 6, 7, 8, 9, 14, 15, 16, 17 and 20; and Precincts 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Ward 19.

This relator further represents that on October 26, 1931, he did pay to the Treasurer of the State (Missouri) Central Committee of the Democratic Party, upon whose ticket this relator proposes as a candidate and seeks nomination as and for representative from the Tenth Congressional District of the State of Missouri in the House of Representatives of the Congress of the United States, the sum of Fifty ($50.00) Dollars in lawful money of the United States in accordance with the provisions of the laws of Missouri and more particularly in accordance with the provisions of Section 10258 of the Revised Statutes of Missouri, 1929, and did take a receipt therefor, and thereafter on the 26th day of October, 1931, this relator did sign and execute a written declaration as provided for by the laws of Missouri

and, more particularly as provided for by Section 10257 of the Revised Statutes of Missouri, 1929, and in said written declaration this relator did state his full name and residence and that he proposed and proposes as a candidate for the office of representative from the Tenth Congressional District of Missouri in the House of Representatives in the Congress of the United States and that the party upon whose ticket he desires and is to be a candidate is the Democratic Party, and that if nominated and elected to such office, that he will qualify and such declaration was substantially in the following form, to-wit:

I, the undersigned, a resident and qualified elector of the 5th Ward, 3rd Precinct of the 5th Ward of the City of St. Louis, and State of Missouri do announce myself a candidate for the office of representative from and of the Tenth Congressional District of the State of Missouri in the [fol. 13] House of Representatives of the Congress of the United States of the Democratic Ticket to be voted for at the Primary Election to be held on the first Tuesday in August, 1932, and I further declare that if nominated and elected to such office, I will qualify.

Dated this 26th day of October, 1931.

(Signed) John J. Carroll.

This relator further represents that he did then on said 26th day of October, 1931, present and tender to the Respondent, Charles U. Becker, Secretary of State of the State of Missouri, at the office of said Respondent in the State Capitol in Jefferson City, Cole County, State of Missouri, the said written declaration signed and executed by this relator as aforesaid and also said receipt, and did request the Respondent to accept and file the same, all in accordance with the laws of Missouri, in such case made and provided and said Respondent did refuse and continues to refuse to accept or file the same and has rejected said written declaration and said receipt;

That at all times herein mentioned, it has been and now is one of the duties of said Respondent as Secretary of State of the State of Missouri, to receive filings of candidates for the nomination to the office of representatives in Congress from all persons eligible to be candidates thereat; and this relator at all times herein mentioned was and is so eligible.

This relator represents that he has no adequate remedy at law, and that in the interest of all the citizens and electors of the State of Missouri, a speedy hearing and determination of the matters herein presented is necessary to the welfare of the public;

Wherefore, your relator respectfully prays for the State's Writ of Mandamus directed to the Respondent, commanding him to accept from this relator for filing and to file said written declaration of this relator as a candi-
[fol. 14] date on the ticket of the Democratic Party of Missouri for the office of Representative from the Tenth Congressional District of the State of Missouri in the House of Representatives of the Congress of the United States, and relator prays that the Court make and enter such further orders, judgments, decrees touching the premises, as to this Honorable Court shall seem meet, just, proper and necessary.

John J. Carroll, Relator. Hyman G. Stein, Attorney for Relator.

Duly sworn to by John J. Carroll. Jurat omitted in printing.

[fol. 15] RELATOR'S EXHIBIT "A" TO AMENDED PETITION

State of Missouri, Department of State

To all to whom these presents shall come:

I, Charles U. Becker, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the annexed pages contain a full, true and complete copy of the record of the proceedings of the Fifty-Sixth General Assembly relative to the introducing and passing of Committee Substitute for Senate Bills 95, 141 and 147, as shown by the House and Senate Journals of said Assembly; also a copy of Committee Substitute for Senate Bills 95, 141 and 147 in form as passed, as the same appears on file and of record in this office.

In testimony whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City

of Jefferson, this twenty-third day of October, A. D. Nineteen Hundred and Thirty-one.

Charles U. Becker, Secretary of State. (Seal.)

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725.

Be it enacted by the General Assembly of the State of Missouri, as follows:

[fol. 16] Section 1. That section 10712 of the Revised Statutes of Missouri, 1929, be and the same is hereby repealed and a new section enacted in lieu thereof, to be known as section 10712, and to read as follows:

Sec. 10712. The State of Missouri, is hereby divided into thirteen congressional districts, the legal voters of each district to elect one member of congress of the United States.

Section 2. That sections 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, be and the same are hereby repealed and 13 new sections enacted in lieu thereof, to be known as sections 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and to read as follows:

Sec. 10713. The first district shall be composed of the counties of: Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Clark, Lewis, Marion, Ralls, Pike, Lincoln, Montgomery, Warren, St. Charles, Franklin and Gasconade.

Sec. 10714. The second district shall be composed of the counties of: Harrison, Daviess, Mercer, Grundy, Livingston, Carroll, Putnam, Sullivan, Linn, Chariton, Saline, Schuyler, Adair, Macon, Randolph and Howard.

Sec. 10715. The third district shall be composed of the counties of: Atchison, Holt, Nodaway, Andrew, Buchanan,

Platt, Worth, Gentry, Clinton, Clay, DeKalb, Caldwell and Ray.

Sec. 10716. The fourth district shall be composed of: All that part of Kansas City included in Wards 9, 10, 12, 14 and 16, as now constituted, and the following Townships in Jackson County, Blue, Fort Osage, Sni-A-Bar, Van Buren, Prairie and Brooking, and the counties of Cass, Bates, Vernon and Barton.

Sec. 10717. The fifth district shall be composed of: All that part of Kansas City included in Wards 1, 2, 3, 4, 5, 6, 7, 8, 11, 13, and 15, as now constituted, and Washington Township in Jackson County.

Sec. 10718. The sixth district shall be composed of the counties of: Lafayette, Johnson, Henry, St. Clair, Pettis, Benton, Hickory, Cooper, Boone, Morgan, Moniteau, Cole, Camden and Miller.

Sec. 10719. The seventh district shall be composed of the counties of: St. Louis county, Jefferson, Ste. Genevieve and Saint Francois.

Sec. 10720. The eighth district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards 11, 12, 13, 10, 23, 24 and 25, and Precincts 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of Ward 28.

Sec. 10721. The ninth district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards 1, 2, 3, 4, 18, 21, 22, 26 and 27; Precincts 6, 7, and 8 of Ward 19; and Precincts 9, 10, 27 and 28 of Ward 28.

Sec. 10722. The tenth district shall be composed of: The following Wards and Precincts as now constituted in the [fol. 17] City of St. Louis: Wards 5, 6, 7, 8, 9, 14, 15, 16, 17 and 20; and Precincts 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Ward 19.

Sec. 10723. The eleventh district shall be composed of the counties of: Perry, Madison, Bollinger, Cape Girardeau, Wayne, Butler, Stoddard, Scott, Mississippi, New Madrid, Pemiscot, Dunklin and Ripley.

Sec. 10724. The twelfth district shall be composed of the counties of: Greene, Dallas, Webster, Laclede, Wright, Maries, Pulaski, Texas, Phelps, Crawford, Washington, Dent, Iron, Shannon, Reynolds, Oregon and Carter.

Sec. 10725. The thirteenth district shall be composed of the counties of: Cedar, Polk, Dade, Jasper, Lawrence, Newton, McDonald, Barry, Stone, Christian, Taney, Douglas, Ozark, and Howell.

Record of Proceedings, Fifty-Sixth General Assembly of Missouri, In re: Committee Substitute for Senate Bills Numbered 95, 141 and 147.

Senate Journal Seventeenth Day, Thursday, January 29, 1931.

Senate Bill No. 95

Introduced by Senator Rehkop and Davis.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and to be read as follows:

Read first time and five hundred copies ordered printed.

Senate Journal Twentieth Day, Tuesday, February 3, 1931.

Senate Bill No. 141

Introduced by Senator Rehkop.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, [fol. 18] 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congres-

sional districts, and enacting in lieu thereof 14 new sections pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and to be read as follows:

Read first time and 500 copies ordered printed.

Senate Journal Twenty-First Day, Wednesday, February 4, 1931.

Senate Bill No. 147

Introduced by Senator Rehkop.

Entitled,

An act to repeal Sections 10712 to 10728 inclusive of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725, and to be read as follows:

Read first time and five hundred copies ordered printed.

Senate Journal Nineteenth Day, Monday, February 2, 1931.

Senate Bill No. 95

Introduced by Senator Rehkop and Davis.

Entitled

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and to be read as follows:

Read second time and referred to the Committee on Elections, Constitutional Amendments, Military Affairs and Permanent Seat of Government.

Senate Journal Twenty-Second Day, Thursday, February 5, 1931.

Senate Bill No. 141

Introduced by Senator Rehkop.

[fol. 19] Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and to be read as follows:

Read second time and referred to the Committee on Elections, Constitutional Amendments, Military Affairs and Permanent Seat of Government.

Senate Journal Twenty-Third Day, Friday, February 6, 1931.

Senate Bill No. 147

Introduced by Senator Rehkop.

Entitled,

An act to repeal sections 10712 to 10728 inclusive, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725, and to be read as follows:

Read second time and referred to the Committee on Elections, Constitutional Amendments, Military Affairs, and Permanent Seat of Government.

Senate Journal Sixty-Seventh Day, Tuesday, April 7, 1931.

The hour of the special order of business having arrived, Committee Substitute for Senate Bill No. 95, 141, 147,

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725.

Was again taken up for engrossment.

[fol. 20] Senate Amendment No. 1 was again taken up for Consideration.

Senator Crouse withdrew Senate Amendment No. 1.

Senator Morgan offered Senate Amendment No. 2 which was read as follows:

Senate Amendment No. 2, to Committee Substitute for Senate Bills 95, 141, 147.

Amend Committee Substitute for Senate Bills 95, 141, 147, Page 2, Section 10714, line 2, by striking out the word "Daviess."

Senator Morgan moved that the Amendment be adopted. Which was lost by the following vote:

Yeas—Senators:

Bates	Hildreth	Rehkop
Bringes	Kelley	Terry
Curfman	Morgan	Titus
Davis	Nolte	Warner
Harlin	Ralph	

Total 14

Noes—Senators:

Bales	Donnelly	McKittrick
Brogan	Gordon	Rollins
Casey	Haymes	Wammack
Clark	Henry	Whitecotton
Crouse	Kinney	Williams
Dearmont	Luther	

Total 17

Not Voting—Senators:

Buford	Gunn	Total 2

Absent with leave—Senator:

Depelheuer	Total 1

Senator Morgan offered Senate Amendment No. 3 which read as follows:

Senate Amendment No. 3 to Committee Substitute for Senate Bills numbers 95, 141 and 147.

Amend Committee Substitute for Senate Bills numbers 95, 141 and 147, by striking out all of sections 10713 to 10725 inclusive, and substituting in lieu thereof thirteen (13) new sections to be known as 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725, and to read as follows:

Section 10713. The first district shall be composed of the Counties of Audrain, Boone, Callaway, Cole, Howard, Lincoln, Marion, Moniteau, Montgomery, Monroe, Pike, Ralls, Randolph, Shelby, St. Charles and Warren.

[fol. 21] Section 10714. The second district shall be composed of the Counties of Adair, Carrol, Chariton, Clark, Grundy, Harrison, Knox, Lewis, Linn, Livingston, Macon, Mercer, Putnam, Saline, Schuyler, Scotland and Sullivan.

Section 10715. The third district shall be composed of the counties of Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Holt, Nodaway, Ray and Worth.

Section 10716. The fourth district shall be composed of the Counties of Clay and Platte, and all of that part of Kansas City included in wards 1, 2, 3, 4, 9, 10 and 11 as constituted January 1, 1931, and the following townships of Jackson County, Blue, Fort Osage and Sni-a-bar.

Section 10717. The fifth district shall be composed of all that part of Kansas City included in words 5, 6, 7, 8, 12, 13, 14, 15 and 16 as constituted January 1, 1931, and the following townships of Jackson County, Brooking, Prairie, Van Buren and Washington.

Section 10718. The sixth district shall be composed of the counties of Barton, Bates, Benton, Cass, Cedar, Cooper, Dade, Dallas, Henry, Hickory, Johnson, Lafayette, Morgan, Pettis, Polk, St. Clair and Vernon.

Section 10719. The seventh district shall be composed of the Counties of Barry, Christian, Douglas, Greene, Jasper, Lawrence, McDonald, Newton, Ozark, Stone and Taney.

Section 10720. The eighth district shall be composed of the Counties of Camden, Carter, Crawford, Dent, Iron, Howell, Laclede, Maries, Miller, Oregon, Phelps, Pulaski, Reynolds, St. Francois, Shannon, Texas, Washington, Webster and Wright.

Section 10721. The ninth district shall be composed of the Counties of Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Ripley, St. Genevieve, Scott, Stoddard and Wayne.

Section 10722. The tenth district shall be composed of the Counties of Franklin, Gasconade, Jefferson, Osage and St. Louis.

Section 10723. The eleventh district shall be composed of all of that part of the city of St. Louis included in Wards 1, 2, 3, 4, 18, 19, 20, 21, 22 and 27, as constituted January 1, 1931.

Section 10724. The twelfth district shall be composed of all that part of the City of St. Louis included in Wards 5, 6, 7, 8, 9, 10, 14, 15, 16, 17 and 23, as constituted January 1, 1931.

Section 10725. The thirteenth district shall be composed of all that part of the City of St. Louis included in Wards 11, 12, 13, 24, 25, 26 and 28 as constituted January 1, 1931.

Senator Morgan moved that Senate Amendment No. 3 be adopted.

Which failed of adoption by the following vote:

[fol. 22] Yeas—Senators:

Bates	Hildreth	Rehkop
Bringes	Kelley	Terry
Curfman	Morgan	Titus
Davis	Nolte	Warner
Harlin	Ralph	

Total 14

Noes—Senators:

Bales	Donnelly	McKittrick
Brogan	Gordon	Rollins
Casey	Haymes	Wammack
Clark	Henry	Whitecotton
Crouse	Kinney	Williams
Dearmont	Luther	

Total 17

Not Voting—Senators:

Buford	Gunn	Total 2

Absent—Senator:

Depelheuer	Total 1

Senator Rehkop offered Senate Amendment No. 4 to Committee Substitute to Senate Bills 95, 141, 147 which was read as follows:

Committee Substitute for Senate Bills 95, 141 and 147.

Amend Committee Substitute for Senate Bills 95, 141 and 147 by striking out all of sections 10713, to 10725 inclusive and insert in lieu thereof 13 new sections to be known as sections 10713, 10714, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725 to read as follows:

Section 10713. The first district shall be composed of the Counties of Audrain, Boone, Callaway, Franklin, Gasconade, Lincoln, Marion, Monroe, Montgomery, Osage, Pike, Ralls, Randolph, St. Charles, Shelby and Warren.

Section 10714. The second district shall be composed of the Counties of Adair, Carroll, Chariton, Clark, Grundy, Harrison, Knox, Lewis, Linn, Livingston, Macon, Mercer, Putnam, Saline, Schuyler, Scotland and Sullivan.

[fol. 23] Section 10715. The third district shall be composed of the Counties of Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Holt, Nodaway, Platte, Ray and Worth.

Section 10716. The fo-rth district shall be composed of the county of Clay and all of that part of Kansas City included in Wards 1, 2, 3, 4, 9, 10 and 11 as constituted Jan-

uary 1, 1931, and all of Blue, Fort Osage and Sni-a-bar townships in Jackson County.

Section 10717. The fifth district shall be composed of all that part of Kansas City included in Wards, 5, 6, 7, 8, 12, 13, 14, 15 and 16 as constituted January 1, 1931, and all of Brooking, Prairie, Van Buren and Washington townships of Jackson County.

Section 10718. The sixth district shall be composed of the counties of Bates, Benton, Cass, Cedar, Cole, Cooper, Henry, Hickory, Howard, Johnson, Lafayette, Moniteau, Morgan, Pettis, Polk, and St. Clair.

Section 10719. The seventh district shall be composed of the counties of Barry, Barton, Christian, Dade, Douglas, Howell, Jasper, Lawrence, McDonald, Newton, Ozark, Stone, Taney, and Vernon.

Section 10720. The eight- district shall be composed of the counties of Camden, Carter, Crawford, Dallas, Dent, Greene, Iron, Laclede, Maries, Miller, Oregon, Phelps, Pulaski, Reynolds, Shannon, Texas, Webster and Wright.

Section 10721. The ninth district shall be composed of the counties of Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne..

Section 10722. The tenth district shall be composed of the counties of Jefferson, St. Francois, St. Genevieve, St. Louis and Washington.

Section 10723. The eleventh district shall be composed of all that part of the City of St. Louis included in Wards 1, 2, 3, 4, 18, 19, 20, 21, 22 and 27, as constituted January 1, 1931.

Section 10724. The twelfth district shall be composed of all that part of the City of St. Louis included in Wards 5, 6, 7, 8, 9, 10, 14, 15, 16, 17 and 23 as constituted January 1, 1931.

Section 10725. The thirteenth district shall be composed of all that part of the City of St. Louis included in Wards 11, 12, 13, 24, 25, 26 and 28 as constituted January 1, 1931.

Senator Rehkop moved that Senate Amendment No. 4 be adopted.

Senator Morgan offered Senate Amendment No. 1 to [fol. 24] Senate Amendment No. 4 which was read as follows:

Senate Amendment No. 1 to Senate Amendment No. 4 to Committee Substitute to Senate Bills 95, 141 and 147.

Amend Amendment No. 4 to Committee Substitute for Senate Bill numbers 95 etc., by striking out of section 10713 the word "Shelby" and amending Section 10714 by adding at the end of said section the word "Shelby."

Senator Morgan moved that the Amendment be adopted.

Which motion failed of adoption by the following vote:

Yeas—Senators:

Bates	Hildreth	Rehkop
Bringes	Kelley	Terry
Curfman	Morgan	Titus
Davis	Nolte	Warner
Harlin	Ralph	
		Total 14

Noes—Senators:

Bales	Donnelly	McKittrick
Brogan	Gordon	Rollins
Casey	Haymes	Wammack
Clark	Henry	Whitecotton
Crouse	Kinney	Williams
Dearmont	Luther	
		Total 17

Absent—Senators:

Buford	Gunn	Total 2

Absent with leave Senators:

Depelheuer	Total 1

Committee Substitute for Senate Bills 95, 141, 147, was again taken up for engrossment.

Senate Amendment No. 4 was again considered and failed of adoption by the following vote:

[fol. 25] Yeas—Senators:

Bates	Morgan	Terry
Curfman	Nolte	Warner
Davis	Ralph	
Kelly	Rehkop	
		Total 10

Noes—Senators:

Bales	Donnelly	Luther
Brogan	Gordon	McKittrick
Crouse	Haymes	Wammack
Clark	Henry	Whitecotton
Dearmont	Kinney	Williams
		Total 15

Absent—Senators:

Bringes	Gunn	Rollins
Buford	Harlin	Titus
Casey	Hildreth	
		Total 8

Absent with leave Senators:

Depelheuer	Total 1

Senator Morgan offered Senate Amendment No. 5.

Senate Amendment No. 5 to Committee Substitute for Senate Bills numbers 95, 141 and 147.

Amend Committee Substitute for Senate Bills Nos. 95, 141 and 147 by striking out in the second line of the caption the figure "95."

Senator Bales raised a point of order against the Amendment for the reason that after the substitute was defeated Senate Bill No. 95 would still be on the calendar.

The Chair held the point of order well taken and declared the Amendment out of order.

Senator Warner offered Senate Amendment No. 6 which was read as follows:

[fol. 26] Senate Amendment No. 6 to Senate Bills Nos. 95, 141 and 147.

Amend Committee Substitute for Senate Bills Nos. 95, 141 and 147, page 3, Sections 10720 and 10722 by striking out in line 3 of Section 10720 the figure "14" and substituting in lieu thereof the figure "10" and by striking out of Section 10722, line 3, the figure "10" and substituting in lieu thereof the figure "14."

Senator Warner moved that the Amendment be adopted.

Which motion prevailed.

Senator Davis offered Senate Amendment No. 7, which was read as follows:

Senate Amendment No. 7 to Committee Substitute for Senate Bills 95, 141 and 147.

Amend Committee Substitute for Senate Bills 95, 141 and 147, Section 10716, by striking out the word "Cass" in line 5.

Senator Davis moved that the Amendment be adopted.

Which motion was lost by the following vote:

Yeas—Senators:

Bringes	Kelley	Ralph
Curfman	Morgan	Rehkop
Davis	Nolte	Terry
		Warner

Total 10

Noes—Senators:

Bales	Donnelly	Luther
Brogan	Gordon	McKittrick
Crouse	Haymes	Wammock
Clark	Henry	Whitecotton
Dearmont	Kinney	Williams

Total 15

Absent—Senators:

Bates	Gunn	Rollins
Buford	Harlin	Titus
Casey	Hildreth	

Total 8

Absent with leave Senators:

Depelheuer

Total 1

[fol. 27] Senator Davis offered Senate Amendment No. 8 to Committee Substitute to Senate Bills 95, 141, 147 which was read as follows:

Amend Committee Substitute for Senate Bills 95, 141, 147, Section 10716 line 5 by striking out the word "Bates" and further amend said substitute section 10718 by inserting the word "Bates" between the words "Johnson" and "Henry" in line 2 of said section.

Senator Davis moved the adoption of the Amendment which was lost by the following vote:

Yeas—Senators:

Bates	Hildreth	Ralph
Bringes	Kelley	Rehkop
Curfman	Morgan	Terry
Davis	Nolte	Warner

Total 12

Nays—Senators:

Bales	Donnelly	Luther
Brogan	Gordon	McKittrick
Clark	Haymes	Wammack
Crouse	Henry	Whitecotton
Dearmont	Kinney	Williams

Total 15

Absent—Senators:

Buford	Gunn	Rollins
Casey	Harlin	Titus
Depelheuer		

Total 7

Senator Davis offered Senate Amendment No. 9, which was read as follows:

Senate Amendment No. 9 to Committee Substitute for Senate Bill Nos. 95, 141, 147.

Amend Committee Substitute for Senate Bill Nos. 95, 141, and 147, by striking out of lines five and six of section 10716, by striking out the words "and the counties of Cass, Bates, Vernon and Barton."

Senator Davis moved that the Amendment be adopted.

Senator Bales offered Senate Amendment No. 1 to Senate Amendment No. 9 which was read as follows:

[fol. 28] Senate Amendment No. 1 to Senate Amendment No. 9 to Committee Substitute Nos. 95, 141 and 147.

Amend Amendment by adding thereto the following words and by inserting in lieu of the words so stricken out the following words "and the counties of Lafayette and Johnson."

Senator Bales moved the Amendment be adopted.

Which motion prevailed.

Senate Amendment No. 9 as amended failed of adoption, by the following vote:

Yeas—Senators:

Bates	Davis	Ralph
Bringes	Morgan	Rehkop
Curfman		
		Total 7

Noes—Senators:

Bales	Dearmont	Kinney
Brogan	Donnelly	McKittrick
Clark	Gordon	Whitecotton
Crouse	Haymes	Williams
		Total 12

Absent—Senators:

Buford	Hildreth	Terry
Casey	Kelley	Titus
Gunn	Luther	Wammack
Harlin	Nolte	Warner
Henry	Rollins	
		Total 14

Absent with leave Senators:

Depelheuer	Total 1

Senator Rehkop offered Senate Amendment No. 10 which was read as follows:

Senate Amendment No. 10 to Committee Substitute for Senate Bills Nos. 95, 141, 147.

Amend Section 10718 by adding the word "Cedar" and in Section 10725 by striking out the word "Cedar."

[fol. 29] Senator Rehkop moved that the Amendment be adopted.

Which motion was lost.

Senator Brogan offered Senate Amendment No. 11 to Committee Substitute for Senate Bills 95, 141, 147, which was read as follows:

Senate Amendment No. 11 to Committee Substitute for Senate Bills 95, 141, 147.

Amend Committee Substitute for Senate Bills 95, 141, 147, page 3, section 10721 line 3, by adding between the figure 18 and 21, the figure 20, and by striking out of line 4 after the word precincts and before the word of, the figures 6-7, and 8, and by inserting in lieu thereof the word and figures 4, 5, 6, 7, 8, 9 and 10.

Senator Brogan moved the adoption of the Amendment.

Which motion failed of adoption.

Senator Davis offered Senate Amendment No. 12 to Committee Substitute for Senate Bills 95, 141, 147, which was read as follows:

Senate Amendment No. 12 to Committee Substitute for Senate Bills 95, 141, 147.

Amend Committee Substitute for Senate Bills 95, 141, 147 by striking out all of Section 10717 and substituting in lieu thereof the following:

The fifth district shall be composed of all that part of Kansas City included in wards 5, 6, 7, 8, 13, 14, 15, 16 as constituted January 1, 1931, and the following townships of Jackson County, Brooking, Prairie, Van Buren and Washington.

Senator Davis moved that Senate Amendment No. 12 be adopted.

Which motion was lost by the following vote:

Yeas—Senators:

Bates	Henry	Nolte
Bringes	Hildreth	Ralph
Curfman	Kelley	Rehkop
Davis	Morgan	Terry
		Total 12

Noes—Senators:

Bales	Donnelly	Luther
Clark	Gordon	McKittrick
Crouse	Haymes	Wammack
Dearmont	Kinney	Whitecotton
		Williams
		Total 13

[fol. 30] Absent—Senators:

Brogan	Depelheuer	Rollins
Buford	Gunn	Terry
Casey	Harlin	Warner
		Total 9

Senator Davis offered Senate Amendment No. 13 which was read as follows:

Senate Amendment No. 13, to Committee Substitute for Senate Bills 95, 141, 147.

Amend Committee Substitute Senate Bills 95, 141, 147 by striking out all of Section 10716, and substituting in lieu thereof the following: "The fourth district shall be composed of: all that part of Kansas City included in wards 1, 2, 3, 4, 9, 10, 11, 12 as constituted January 1, 1931, and the following townships of Jackson County: Fort Osage, Blue and Sni-a-bar.

Senator Davis moved that the Amendment be adopted.

Which motion was lost by the following vote:

Yeas—Senators:

Bates	Hildreth	Ralph
Bringes	Kelley	Rehkop
Curfman	Morgan	Terry
Davis	Nolte	Warner
		Total 12

Noes—Senators:

Bales	Gordon	McKittrick
Clark	Haymes	Wammack
Crouse	Henry	Whitecotton
Dearmont	Kinney	Williams
Donnelly	Luther	

Total 14

Absent—Senators:

Brogan	Gunn	Titus
Buford	Harlin	
Casey	Rollins	

Total 7

Absent with leave—Senators:

Depelheuer

Total 1

[fol. 31] Senator Crouse moved that Committee Substitute for Senate Bills Nos. 95, 141, 147 as amended be adopted.

Which motion prevailed by the following vote:

Yeas—Senators:

Bales	Donnelly	Luther
Brogan	Gordon	McKittrick
Clark	Haymes	Rollins
Crouse	Henry	Wammack
Dearmont	Kinney	Whitecotton
		Williams

Total 16

Noes—Senators:

Bates	Hildreth	Ralph
Bringes	Kelley	Rehkop
Curfman	Morgan	Terry
Davis	Nolte	Warner

Total 12

Absent—Senators:

Buford	Gunn	Titus
Casey	Harlin	

Total 5

Absent with leave—Senators:

Depelheuer Total 1

Senator Crouse moved that Committee Substitute for Senate Bills 95, 141, 147 as amended, be ordered engrossed and printed.

Which motion prevailed by the following vote:

Yeas—Senators:

Bales	Donnelly	Luther
Brogan	Gordon	McKittrick
Clark	Haymes	Rollins
Crouse	Henry	Wammack
Dearmont	Kinney	Whitecotton
		Williams

Total 16

[fol. 32] Noes—Senators:

Bates	Hildreth	Ralph
Bringes	Kelley	Rehkop
Curfman	Morgan	Terry
Davis	Nolte	Warner

Total 12

Absent—Senators:

Buford	Gunn	Titus
Casey	Harlin	

Total 5

Absent with leave—Senators:

Depelheuer Total 1

68th Day, April 8, 1931 of Senate Journal.

Senator Crouse, Chairman of the Committee on Engrossed Bills, submitted the following report.

Mr. President:

Your Committee on Engrossed Bills to which was referred Committee Substitute for Senate Bills Nos. 95, 141, 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of

Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

Senate Journal 69th Day, Thursday April 9, 1931.

Senator Crouse moved that Committee Substitute for Senate Bills 95, 141, 147 be read third time and placed upon its final passage.

Committee Substitute for Senate Bills 95, 141, 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional [fol. 33] districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 0721, 10722, 10723, 10724 and 10725.

Was taken up.

On motion of Senator Gordon the Senate recessed until 2:00 p. m.

Afternoon Session.

The time of recess having expired the Senate was called to order by the President.

Committee Substitute for Senate Bills 95, 141 and 147 was again taken up for the third reading and final passage.

And on motion of Senator Crouse Committee Substitute for Senate Bills 95, 141 and 147 was read third time and failed to pass by the following vote:

Yeas—Senators:

Bales	Dearmont	Luther
Brogan	Donnelly	McKittrick
Casey	Haymes	Rollins
Clark	Henry	Wammack
Crouse	Kinney	Whitecotton
		Williams

Total 16

Noes—Senators:

Bates	Gordon	Nolte
Bringes	Harlin	Ralph
Curfman	Hildreth	Rehkop
Davis	Kelley	Terry
Depelheuer	Morgan	Titus
		Warner
		Total 16

Not Voting—Senators:

Gunn Total 1

Absent with leave—Senator:

Buford Total 1

[fol. 34] Senate Journal Seventeenth Day, Friday April 10, 1931.

Senator Gordon moved that the vote by which Committee Substitute for Senate Bills Nos. 95, 141 and 147 failed to pass, be reconsidered.

Which motion prevailed.

Committee Substitute for Senate Bills Nos. 95, 141 and 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

Was again taken up read third time and passed by the following vote:

Yeas—Senators:

Bales	Dearmont	Luther
Brogan	Donnelly	McKittrick
Buford	Gordon	Rollins
Casey	Haymes	Wammack
Clark	Henry	Whitecotton
Crouse	Kinney	Williams
		Total 18

Noes—Senators:

Bates	Harlin	Nolte
Curfman	Hildreth	Ralph
Davis	Kelly	Rehkop
Depelheuer	Morgan	Terry
		Titus
		Total 13

Absent—Senators:

Bringes	Gunn	Total 2

Absent with leave—Senator:

Warner	Total 1

The President declared the Bill passed.

[fol. 35] Senator Gordon moved that the title be agreed to.

Which motion prevailed.

Senator Gordon moved that the vote by which the bill passed, be reconsidered.

Senator Clark moved that that motion lie on the table.

The latter motion prevailed.

Senate Journal Seventy-Fifth Day, Friday, April 17, 1931.

Mr. President:

I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed Committee Substitute for Senate Bills Nos. 95, 141, 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered

10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

Senator Clark, Chairman of the Committee on Enrolled Bills submitted the following report:

Mr. President:

Your Committee on Enrolled Bills to which was referred Committee Substitute for Senate Bills No. 95, 141 and 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

[fol. 36] Begs leave to report that it has compared the same with the original and Amendments proposed and examined the record of both houses and said — here is properly enrolled.

The president announced that all other business would be suspended and that Committee Substitute for Senate Bills 95, 141 and 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

Having passed both branches of the General Assembly would be read at length and if there were no objections said bill would be signed by the President to the end that it may become a law, said bill was read at length by the Secretary and signed by the President.

[fol. 37] House Journal, Seventy-Third Day, Monday, April 13, 1931

The following message was received from the Senate through its Secretary.

Mr. Speaker:

I am instructed by the Senate to inform the House of Representatives that there has been introduced into and passed by the Senate Committee Substitute for Senate Bills 95, 141 and 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716,—, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

In which the concurrence of the House of Representatives is respectfully requested.

Was read first time.

House Journal Seventy-Fourth Day, April 14, 1931.

Committee Substitute for Senate Bills Nos. 95, 141, and 147 was read the second time and referred to the Committee on Redistricting.

Mr. Hammett Chairman of the Committee on Redistricting submitted the following report.

Mr. Speaker:

Your Committee on Redistricting to which was referred Committee Substitute for Senate Bills Nos. 95, 141, 147,

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, [fol. 38] 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and con-

gressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725.

Begs leave to report that it has examined the same and recommends that it do pass.

Mr. Hammett moved that Senate Committee Substitute for Senate Bills Nos. 95, 141, 147, be made a special order of business Wednesday afternoon at 2:00 o'clock, which motion prevailed.

House Journal Seventy-fifth day, Wednesday, April 15, 1931.

The hour for special order of business having arrived Senate Committee Substitute for Senate Bills Nos. 95, 141, 147 was taken up for third reading and placed on its final passage.

On motion of Mr. Hammett Committee Substitute for Senate Bills Nos. 95, 141, 147 was taken up for third reading and placed on its final passage.

Committee Substitute for Senate Bills Nos. 95, 141 and 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728, of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, and 10725.

Mr. Elmer offered House Amendment No. 1 to Committee Substitute for Senate Bills Nos. 95, 141 and 147.

House Amendment No. 1 to Committee Substitute for Senate Bills Nos. 95, 141 and 147.

Amend Committee Substitute for Senate Bills Nos. 95, 141 and 147 by striking out all Sections 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725 and substitute in lieu thereof the following:

Section 10713. The first district shall be composed of the counties of Atchison, Nodaway, Worth, Harrison, Mercer, Daviess, Gentry, DeKalb, Andrew, Holt, Buchanan, Platte, Clinton and Caldwell.

[fol. 39] Section 10714. The second district shall be composed of; all that part of Kansas City included in words 1, 2, 3, 4, 9, 10 and 11, as now constituted and the following Townships in Jackson County; Blue, Fort Osage, Sni-a-bar, Van Buren and Prairie and the counties of Clay and Ray.

Section 10715. The third district shall be composed of all that part of Kansas City, included in wards 5, 6, 7, 8, 12, 13, 14, 15 and 16, as now constituted and the following Townships in Jackson County; Washington and Brooking and the counties of Cass and Lafayette.

Section 10716. The fourth district shall be composed of the counties of Putnam, Sullivan, Grundy, Livingston, Linn, Macon, Shelby, Marion, Monroe, Ralls, Chariton and Carroll. Schuyler.

Section 10717. The fifth district shall be composed of the counties of Pike, Lincoln, St. Charles, Warren, Montgomery, Gasconade, Osage, Callaway, Audrain, Randolph, Boone, Howard, Cooper, Cole, and Moniteau.

Section 10718. The sixth district shall be composed of the following wards and precincts as now constituted in the City of St. Louis: Wards 11, 12, 13, 10, 23, 24 and 25, and Precincts 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17; 18, 19, 20, 21, 22, 23, 24, 25, and 26 of Ward 28.

Section 10719. The seventh district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards, 1, 2, 3, 4, 18, 21, 22, 26, and 27, Precincts 6, 7, and 8 of Ward 19: and Precincts 9, 10, 27 and 28 of Ward 28.

Section 10720. The eighth district shall be composed of: The following Wards and Precincts as now constituted in the City of St. Louis: Wards 5, 6, 7, 8, 9, 14, 15, 16, 17 and 20: and Precincts 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Ward 19.

Section 10721. The ninth district shall be composed of the Counties of St. Louis, Jefferson and Franklin.

Section 10722. The tenth district shall be composed of the Counties of Saline, Johnson, Pettis, Bates, Henry, Benton, Morgan, Miller, Camden, Laclede, Dallas, Hickory, St. Clair, Vernon, Barton, Cedar, Dade, Polk.

Section 10723. The eleventh district shall be composed of the counties of Greene, Christian, Taney, Stone, Lawrence, Barry, Jasper, Newton, McDonald.

Section 10724. The twelfth district shall be composed of the Counties of Washington, Crawford, Iron, Dent, Phelps, Maries, Pulaski, Webster, Wright, Texas, Shannon, Reynolds, Madison, Carter, Wayne, Ripley, Butler, Oregon, Howell, Douglas and Ozark.

Section 10725. The thirteenth district shall be composed of the counties of St. Francois, Ste. Genevieve, Perry, Cape Girardeau, Bollinger, Scott, Stoddard, New Madrid, Mississippi, Dunklin and Pemiscot.

Which failed of adoption by the following Vote:

Ayes—Messrs:

Amyx	Divinia	Huber
Ballew	Duensing	Jones (Jefferson)
Bamber	Elmer	Kendell
Barken	Fields	Klebba
Beaman	Fisher	Knell
Britain	Freeland	Lehman
Bryant	Goener	Limbough
Clegg	Harrison	Logan (Benton)
Crain	Heege	Miller (Andrew)
Davies	Hehl	Miller (St. L. City)

[fol. 40]

Moody	Putnam	Spearman
Oberhellman	Riener	Still
Ochs	Ringe	Stitt
Papke	Schaffner	Vincent
Parker	Schultz	Wahlers
Proechter	Silvey	Whitaker
Procter	Smith (Laclede)	Williams
Pryor	Sobotka	Wolff

Total 54

Noes—Messrs:

Abney	Gingery	Marsh
Alexander	Hammett	Maxey
Armstrong	Harper	Meredith
Asotsky	Hadkell	Motter
Baldwin	Hendren	Murray
Barry (Mississippi)	Hicks	Neill
Bates	Higgins	Paul
Berry (Jackson)	Hodges	Penman
Blair	Holliday	Ramsey
Bourk	Holman	Rebo
Bradley	Hudson	Reed
Brannock	Huston	Richards
Brown	Jackson	Riley
Burton	Job	Roach
Calvin	Joffee	Roney
Carter	Jones (Cooper)	Rucker
Chancellor	Jones (Dunklin)	Sizer
Clay	Jones (Macon)	Smith (Lincoln)
Corbett	Keating	Snyder (Lewis)
Cox	Keithly	Terrill
Damon	Kinder	Tetherow
Daniels	Kirby	Tracy
Despain	Lafferty	White
Drury	Lehr	Whitecotton
Elder	Lyell	Whitsell
Fletchall	McCormick	Wisdom
Foley	McKinney	Witty
Francis	Maness	Mr. Speaker
Fyan		

Total 85

Absent—Messrs:

Hinshaw	Peery	Rens
Lemon	Ploeser	Schneider (St. L. City)
Logan (Carroll)	Powell	Simpson
Meyer	Presley	

Total 11

[fol. 41] On motion of Mr. Hammett Committee Substitute for Senate Bills Nos. 95, 141 and 147 was read third time and passed by the following vote:

Ayes—Messrs:

Abney	Fyan	Marsh
Alexander	Gingery	Maxey
Armstrong	Hammett	Meredith
Asotsky	Harper	Murray
Baldwin	Haskell	Neill
Barry (Mississippi)	Hendren	Paul
Bates	Hicks	Perry
Berry (Jackson)	Higgins	Penman
Blair	Hodges	Ramsey
Bourk	Holliday	Rebo
Bradley	Holman	Reed
Brannock	Hudson	Richards
Brown	Huston	Riley
Burton	Jackson	Roach
Calvin	Job	Roney
Carter	Joffee	Rucker
Chancellor	Jones (Cooper)	Sizer
Clay	Jones (Dunklin)	Smith (Lincoln)
Corbett	Keating	Snyder (Lewis)
Cox	Keithly	Terrill
Damon	Kinder	Tetherow
Daniels	Kirby	Tracy
Despain	Lafferty	White
Drury	Lehr	Whitecotton
Elder	Lyell	Whitsell
Fletchall	McCormick	Wisdom
Foley	McKinney	Witty
Francis	Maness	Mr. Speaker

Total 84

Noes—Messrs:

Amyx	Davies	Heege
Ballew	Divinia	Hehl
Bamber	Duensing	Huber
Barken	Elmer	Jones (Jefferson)
Beaman	Fields	Jones (Macon)
Britain	Fisher	Kendell
Bryant	Freeland	Klebba
Clegg	Goener	Knell
Crain	Harrison	Lehman

Limbough	Pryor	Spearman
Logan (Benton)	Putnam	Still
Miller (Andrew)	Rens	Stitt
Moody	Reiner	Vincent
Oberhellmann	Ringe	Wahlers
Ochs	Schaffner	Whitaker
Papke	Schultz	Williams
Parker	Silvey	Wolff
Proechter	Smith (Laclede)	
Proctor	Sobotka	

Total 55

[fol. 42] Absent—Messrs:

Hinshaw	Miller (St. L. City)	Presley
Lemon	Motter	Schneider (St. L. City)
Logan (Carroll)	Ploeser	Simpson
Meyer	Powell	

Total 11

On motion of Mr. Bates the title of Committee Substitute for Senate Bills Nos. 95, 141 and 147 was read and agreed to.

Mr. Calvin moved to reconsider the vote by which Committee Substitute for Senate Bills Nos. 95, 141 and 147 was passed.

Mr. Huston moved that the previous motion lie on the table

Which motion prevailed.

House Journal Eighty-second Day, Friday April 24, 1931,

Comes now into the House in open session R. E. L. Marrs Secretary of the Senate and presents to the Speaker of the House Senate Bills Nos. 124, 92, 136, 52, 63, 12, 13, 14, 22, 29, and Committee Substitute for Senate Bills Nos. 95, 141, 147 as passed and approved by both the House and the Senate and authenticated as truly enrolled.

Thereupon the Speaker of the House before affixing his signature thereto, did suspend all other business and ordered and declared Senate Bills Nos. 124, 92, 136, 52, 63, 12, 13, 14, 22, 29, and Committee Substitute for Senate Bills Nos. 95, 141, 147, be now read.

Thereupon Senate Bills Nos. 124, 92, 136, 52, 63, 12, 13, 14, 22, 29, and Committee Substitute for Senate Bills Nos.

95, 141, 147, were read at length and no objections being made the speaker of the House in open session did sign the same to the end that they became laws, such signing being in the presence of the House in open session, in accordance with law in such cases made and provided.

[fol. 43] Eighty-second Day, Saturday April 25, 1931.

April 25, 1931.

To the Senate of the 56th General Assembly:

I have the honor to return herewith, without my approval, Committee Substitute for Senate Bills No. 95, No. 141, No. 147.

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727, and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered, 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725.

This is the same bill referred to in my message of April 14, 1931, as the Congressional Redistricting Measure which the Senate had passed and had transmitted to the House for its action. This bill was passed by the House, on a strictly party vote, on the very next day after that message was delivered. I can add little to what was said in that message concerning it. If my objections to the bill, expressed before it was passed, were not sufficient to influence your action, I have little hope that their mere repetition now will have any greater effect.

However, the Constitution requires that in returning a bill without my approval, I state my objections.

These are:

That the bill does not provide districts which are compact in territory and it does violate the principle that territory, the inhabitants of which have the same common interests and problems, should be joined for the purpose of congressional representation. That compactness has not

been sacrificed for the purpose of obtaining equality of population in evident. Other plans suggested outlined districts much more compact, without sacrificing substantial equality in population.

Much has been said of the supposed partisan complexion of the districts formed both by this measure, and by other plans. I respectfully suggest that compactness of districts and the joining of people having common interests and problems should not be sacrificed for partisan purposes. The districts should not be distorted to make them either Republican or Democratic.

[fol. 44] It is not contemplated by law or principle that citizens shall be thrown together into districts, at the expense of compactness, merely because of their supposed partisan affiliations, or in order to make the representation of the State in Congress predominantly Republican or predominantly Democratic.

I am returning this bill to you as soon as possible. While it was passed by the House on April 15th, it did not reach me until yesterday, April 24th. It is late in the session and I know that you are tired from your arduous and prolonged service, but nevertheless it is highly desirable that a suitable redistricting measure by adopted at this session, and you still have time to pass such an act, I indulge the hope that you will do so.

However, as I said in my message, it is better that our people be inconvenienced for two years, or even longer, than to be deprived indefinitely of fair representation in the Congress of the United States.

Very truly yours,

Henry S. Caulfield, Governor.

Clerk's Certificate to foregoing exhibit omitted in printing.

[fol. 45] IN SUPREME COURT OF MISSOURI

31668

State ex Rel. JOHN J. CARROLL, Rel.,

vs.

CHARLES U. BECKER, Secy. of State, Resp.

ORDER FOR AMENDED ALTERNATIVE WRIT—Nov. 4, 1931

Now at this day, the court having seen and examined the amended petition, doth order that an amended alternative writ issue herein, as prayed, directed to said respondent, said writ to be returnable on November 11, 1931.

It is further ordered by the Court that said cause be, and the same is hereby set for December 7, 1931, in court en banc, with leave to the relator to file brief on or before December 18, 1931, and respondent to file brief on or before November 30, 1931.

IN SUPREME COURT OF MISSOURI

[Title omitted]

MINUTE ENTRY—Nov. 10, 1931

Comes now the respondent, by attorney, and files herein his return to the amended alternative writ of mandamus heretofore ordered issued herein.

[fol. 46] IN SUPREME COURT OF MISSOURI

[Title omitted].

RETURN OF RESPONDENT

Now comes Respondent and makes return to the alternative writ of mandamus issued herein on the amended petition of Relator.

Respondent admits as follows:

(A), That the Relator is a citizen of the United States, an inhabitant and elector of the State of Missouri, a resi-

dent of the 5th Ward in the City of St. Louis, Missouri, and twenty-eight years of age:

(B), That the Respondent is Secretary of State of the State of Missouri:

(C), That the Relator is qualified to be a candidate for nomination for the office of Representative in Congress from the State of Missouri:

(D), That the Relator is entitled to the equal protection of the laws of the State of Missouri and of the United States:

(E), That under the Act of Congress of June 18, 1929, the message of the President of the United States of December 4, 1930, and the certificate of the Clerk of the House of Representatives of the United States of March 4, 1931, the State of Missouri is entitled to thirteen Representatives in the House of Representatives of the Congress of the United States to be elected at the general election in [fol. 47] said state in 1932:

(F), That the Congress of the United States is not now in session and has not been called in special session:

(G), That the Fifty-sixth General Assembly of Missouri convened January 7, 1931, and continued in session until it adjourned sine die on the 15th day of June 1931 and that it is not now in session and has not been called in special session:

H), That the Fifty-sixth General Assembly of the State of Missouri at its session in 1931 by a majority vote of the House of Representatives and of the Senate acting separately passed a bill known as "Committee Substitute for Senate Bills 95, 141 and 147, Fifty-sixth General Assembly of Missouri," entitled; "An Act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts and enacting in lieu thereof, 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725," and that section 10722 of said Act purported to include the 5th Ward of the City of St. Louis, Missouri,

within the tenth district as numbered and described in said Bill, but alleges that said Bill was vetoed by the Governor and denies that it became a law:

(I), That the Relator on the 26th day of October, 1931, paid to the Treasurer of the State Central Committee of the Democrat Party fifty dollars and took a receipt therefor and thereafter on the same day tendered for filing in the office of the Secretary of State of the State of Missouri said receipt and his declaration in writing as a candidate for nomination by the Democrat Party at the primary election to be held on the first Tuesday in August, 1932, as the candidate of that party for Representative in the Congress of the United States from the tenth district as pur- [fol. 48] ported to be formed by said Act of the General Assembly of Missouri of 1931:

(J), That the Respondent refused and still refuses to accept and file said declaration of Relator as a candidate for nomination for Representative in Congress from the tenth district as designated in said act of the General Assembly.

The Respondent denies each and every allegation in the amended petition of Relator and alternative writ of mandamus issued herein except as above expressly admitted to be true.

The Respondent specifically denies that said Bill so passed by the General Assembly of Missouri of 1931 relating to electoral and congressional districts and the provisions therein contained became the law or are valid and existing laws of the State of Missouri.

The Respondent specifically denies that said Bill so passed by the General Assembly of Missouri of 1931 was enacted into law or became or is a law.

The Respondent specifically denies that the Legislature of the State of Missouri in the 56th General Assembly divided the State into thirteen Congressional Districts.

The Respondent specifically denies that sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, 10725, 10726, 10727 and 10728 of the Revised Statutes of Missouri, 1929, were repealed by said Act of the General Assembly of Missouri of 1931.

The Respondent specifically denies that sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721,

10722, 10723, 10724 and 10725 as set out and numbered in said Act of the General Assembly of Missouri of 1931 were enacted into law.

The Respondent specifically denies that there is a tenth district of Missouri as described in section 10722 of said Act of the General Assembly of Missouri of 1931 containing the 5th Ward of the City of St. Louis, Missouri, and in and for and from which the Relator attempted to file [fol. 49] his said declaration as a candidate for the nomination for Representative in the Congress of the United States or from which a Representative in the Congress of the United States is to be elected in 1932.

The Respondent specifically denies that the Relator became, was or is entitled to file in the office of said Secretary of State his said declaration as a candidate for nomination for Representative in the Congress of the United States from a tenth district as described in said Act of the General Assembly.

The Respondent specifically denies that it became, was or is his duty as Secretary of State to accept and file said declaration of the Relator as a candidate for nomination for the office of Representative in the Congress of the United States.

The Respondent specifically denies that Respondent's refusal to accept and file Relator's said declaration as a candidate for nomination for Congress abridged or denied the rights, privileges and immunities of Relator under Section 2 of Article I of the Constitution of the United States or deprived him of the equal protection of the laws of Missouri or of the United States.

The Respondent states the facts to be that said Act of the General Assembly of Missouri of 1931, described in Relator's amended petition, in the alternative writ of mandamus issued herein and in this return was thereafter presented to the Governor of the State of Missouri, vetoed by him on the 25th day of April, 1931, and returned by him to the Senate in which the Bill originated without his approval and with his objections thereto which were spread on the Journal all in the time and manner provided by the Constitution of Missouri, and that no further action was taken thereon by the General Assembly and that the same was not thereafter passed by said General Assembly over said veto in the manner required by Section 39 of Article

IV of the Constitution of this State, and that said Act is void and of no effect, a duly certified copy of the proceed-
[fol. 50] ings of the Senate and the Governor's veto message is marked "Exhibit A" and hereto attached and made a part hereof.

The Respondent further states the facts to be that the State of Missouri has heretofore been divided into sixteen congressional districts; that the state is now entitled to elect only thirteen Representatives in the Congress of the United States and that said sixteen congressional districts were abolished by the 1930 Census of the United States and the new apportionment of Representatives for this State under the Act of Congress of June 18th, 1929, and that there was on the 26th day of October, 1931, no districts in this state for or from which candidates for nomination for the office of Representative in the Congress of the United States to be voted for at the primary election to be held in this state on the first Tuesday in August, 1932, could legally file declarations, and there are now no such districts, and there was and is no tenth district in this state in or for or from which the Relator was or is entitled to file a declaration as a candidate for nomination for Representative in the Congress of the United States.

The Respondent further states the facts to be that under the Act of Congress of June 18, 1929, (46 St. L. 26, Title 2 U. S. C. A. 1931 Cumulative Annual Pocket Part, Section 2a, page 7) and the apportionment made in accordance therewith, the State of Missouri became and is entitled to thirteen Representatives in the Congress of the United States to be elected at the General election in this state in November, 1932: One Representative to be elected from each district if the State be divided into districts, and if the State be not divided into districts to be elected from the whole state: That the Act of Congress of August 8, 1911, and particularly sections 3 and 4 thereof which are a part of the general law (Act of Congress December 7, 1925, Title 1 U. S. C. A., page 3) and which are as follows:,

"Election by districts. In each State entitled under this apportionment to more than one Representative, the Rep-
[fol. 51] resentatives to Congress shall be elected by districts composed of a contiguous and compact territory, and containing as nearly as practicable an equal number

of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative. (Aug. 8, 1911, c. 5, Sec. 3, 37 Stat. 14.)

"Additional Representatives at large. In case of an increase in the number of Representatives in any State under this apportionment such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the districts prescribed by law on August 8, 1911, until such State shall be redistricted in the manner provided by the laws thereof and in accordance with the rules enumerated in section 3; and if there be no change in the number of Representatives from a State, the Representatives thereof shall be elected from the districts prescribed by law on August 8, 1911, until such State shall be redistricted as herein prescribed. (Aug. 8, 1911, c. 5, Sec. 4, 37 Stat. 14.)"

37 St. 14, Title 2 U. S. C. A., Sections 3 and 4, page 19.

have not been repealed and are in force and effect and the State of Missouri should be divided into thirteen congressional districts created and established by law of the State of Missouri enacted in the manner required by the Constitution of Missouri, and that unless and until the State is divided into such districts by law duly enacted by the General Assembly of Missouri in accordance with the Constitution of this state such Representatives shall be elected from and by the entire state.

That by reason of the premises the Respondent had, at the time Relator tendered his said declaration as a candidate for filing in the office of the Secretary of State, and now has no authority to accept and file said declaration of the Relator as such candidate and that it was not and is not the duty of Respondent to accept and file such declaration.

Wherefore the Respondent prays that the alternative writ of mandamus herein be quashed, that the writ of man-

damus applied for be denied and that he be discharged with his costs in this behalf expended.

Charles U. Becker, Charles U. Becker, Secretary of State of the State of Missouri, Respondent. Strat-
[fol. 52] ton Shartel, Stratton Shartel, Attorney General. Ray Weightman, Ray Weightman, Assistant Attorney General. L. Cunningham, L. Cunningham, Of Counsel, Attorneys for Respondent.

[fol. 53] EXHIBIT "A" TO RETURN

State of Missouri, Department of State

To All to Whom These Presents Shall Come:

I, Charles U. Becker, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the annexed pages contain a full, true and complete copy of the proceedings of the Senate in regard to Committee Substitute for Senate Bills No. 95, No. 141, and No. 147 and the veto thereof by the Governor, as shown by the Senate Journal of Saturday, April 25, 1931, being the Eighty-second day of its session, as the same appears on file and of record in this office.

In testimony whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this tenth day of November, A. D. Nineteen Hundred and Thirty-one.

Charles U. Becker, Secretary of State. (Seal.)

Senate Journal

Eighty-second Day, Saturday, April 25, 1931

* * * * * * *

The following message was received from the Governor by his private secretary:

April 25, 1931.

To the Senate of the 56th General Assembly:

I have the honor to return herewith, without my approval, Committee Substitute for Senate Bills No. 95, No. 141, No. 147,

Entitled,

An act to repeal sections 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724, [fol. 54] 10725, 10726, 10727, and 10728 of the Revised Statutes of Missouri, 1929, relating to electoral and congressional districts, and enacting in lieu thereof 14 new sections, pertaining to the same subject, and to be numbered 10712, 10713, 10714, 10715, 10716, 10717, 10718, 10719, 10720, 10721, 10722, 10723, 10724 and 10725.

This is the same bill referred to in my message of April 14, 1931, as the Congressional Redistricting Measure which the Senate had passed and had transmitted to the House for its action. This bill was passed by the House, on a strictly party vote, on the very next day after that message was delivered. I can add little to what was said in that message concerning it. If my objections to the bill, expressed before it was passed, were not sufficient to influence your action, I have little hope that their mere repetition now will have any greater effect.

However, the Constitution requires that in returning a bill without my approval, I state my objections.

These are:

That the bill does not provide districts which are compact in territory and it does violate the principle that territory, the inhabitants of which have the same common interests and problems, should be joined for the purpose of congressional representation. That compactness has not been sacrificed for the purpose of obtaining equality of population in evident. Other plans suggested outlined districts much more compact, without sacrificing substantial equality in population.

Much has been said of the supposed partisan complexion of the districts formed both by this measure, and by other plans. I respectfully suggest that compactness of districts and the joining of people having common interests and problems should not be sacrificed for partisan purposes. The districts should not be distorted to make them either Republican or Democratic.

It is not contemplated by law or principle that citizens shall be thrown together into districts, at the expense of [fol. 55] compactness, merely because of their supposed partisan affiliations, or in order to make the representation

of the State in Congress predominantly Republican or predominantly Democratic.

I am returning this bill to you as soon as possible. While it was passed by the House on April 15th, it did not reach me until yesterday, April 24th. It is late in the session and I know that you are tired from your arduous and prolonged service, but nevertheless it is highly desirable that a suitable redistricting measure be adopted at this session, and you still have time to pass such an act. I indulge the hope that you will do so.

However, as I said in my message, it is better that our people be inconvenienced for two years, or even longer, than to be deprived indefinitely of fair representation in the Congress of the United States.

Very truly yours, Henry S. Caulfield, Governor.

[fol. 56] In Supreme Court of Missouri

[Title omitted]

Minute Entry—Nov. 18, 1931

Comes *comes* now the relator, by attorney, and files herein his motion for judgment on the pleadings.

In Supreme Court of Missouri

[Title omitted]

Motion for Judgment on the Pleadings.

Now comes John J. Carroll, Relator herein, and respectfully shows to this Honorable Court that it appears upon the face of the Respondent's return to the Alternative Writ of Mandamus heretofore issued herein, that the said return does not state facts sufficient to constitute a defense to said Writ and does not show any cause whatever for not obeying said writ and said return does not show any cause why a peremptory writ of mandamus should not issue;

[fol. 57] Wherefore, relator respectfully prays for judgment on the pleadings and that the Court issue and award a peremptory writ of mandamus as prayed for in the Amended Petition heretofore filed herein.

Hyman G. Stein, Attorney for Relator.

In Supreme Court of Missouri

[Title omitted]

Minute Entry of Submission, etc.—Dec. 7, 1931

Now at this day, it is ordered by the Court that relator's motion for judgment on the pleadings be, and is hereby taken with the case.

Come now the said parties, by their respective attorneys, and after arguments herein submits this cause to the Court.

In Supreme Court of Missouri

31668. Mandamus

State of Missouri, at the Relation of John J. Carroll, Relator,

vs.

Charles U. Becker, Secretary of State, Respondent

Judgment—Jan. 4, 1932

Now at this day, come again the parties aforesaid, by their respective attorneys, and the Court here being now sufficiently advised of and concerning the premises, doth consider and adjudge that the alternative writ of mandamus heretofore issued herein be, and the same is hereby quashed; and that the said respondent recover against the said relator his costs and charges herein expended and have [fol. 58] therefor execution. (Opinion filed.)

[fol. 59] In Supreme Court of Missouri, En Banc, October Term, 1931

No. 31668

State ex Rel. John J. Carroll, Relator,

vs.

Charles U. Becker, Secretary of State, Respondent

Opinion.

A proceeding by mandamus to compel the Secretary of State to receive and file the relator's declaration of his candidacy for Congress of the United States. The petition

recites portions of the Act of Congress, 1929, providing for the fifteenth and subsequent decennial censuses, and authorizing the president to transmit to each state a message designating the number of members of Congress apportioned to such state, in accordance with such census. It sets out a message of the President to Congress in pursuance of Section 22 (a) of that Act, stating that Missouri is entitled to thirteen representatives in Congress; sets out a bill introduced in the Fifty-Sixth General Assembly of the State of Missouri redistricting the State into thirteen congressional districts, the Tenth District thereof comprising certain wards and precincts in the City of St. Louis; that said bill duly passed the Senate and the House and was disapproved by the Governor in a veto message.

The relator, claiming that the redistricting of the State was authoritatively complete without the Governor's approval, sought to file his declaration as a candidate for the nomination on the Democratic ticket for Congressman from the said Tenth District, and the respondent Secretary of State refused to receive or file his declaration.

The above facts are admitted by respondent's return. [fol. 60] The case is submitted on relator's motion for judgment on the pleadings.

I. The relator asserts the validity of the redistricting act and his right to file as a candidate for the nomination on the Democratic ticket from that district, under Section 4, Article I, of the Constitution of the United States as follows:

"The times, places and manner of holding election for representatives shall be prescribed in each state by the legislature thereof, but the Congress may at any time by law make or alter such regulations."

The point made by relator is that the word "legislature" in that section means the members comprising the legislative body acting in a ministerial capacity and does not mean the law-making power of the State, which includes the Governor as well as the legislative body. It is pointed out in the argument that the word "legislature" occurs many times in the Federal Constitution and in some of them, obviously from the context, it has the restricted meaning claimed for it here. Section 3, Article I of the Federal

Constitution provides that the senators of the United States in each state shall be "chosen" by the legislature thereof. Article V of the Constitution, provides that an amendment to the Constitution shall be "ratified by the legislature of three-fourths of the several states." Those are instances where the word "legislature" does not mean the law-making power of the State. The election of a United States senator is merely by a vote; no law is enacted. Ratifying an amendment to the Federal Constitution likewise is a voted approval by the legislature; it is not the discharge of a law-making function. It is a ministerial act commanded by the United States Constitution. Relator claims that the word "legislature" in Section 4, Article I, has the same meaning.

[fol. 61] Three cases recently have been determined in as many different states construing the word "legislature" as used in that section: State of Minnesota ex rel. Smiley v. Holm, decided October 9, 1931, not yet reported; In re Application of Koenig, et al. v. Flynn, Secretary of State, Supreme Court of New York 1931, not yet reported; State ex rel. Schrader v. Polley, Secretary of State, 26 S. D. p. 5.

In the Minnesota case it was held that an act of the legislature in that State, although vetoed by the Governor, was effective to redistrict the State into congressional districts on the ground that the word "legislature" as used in Section 4, Article I, of the Federal Constitution means merely the legislative body and does not mean the law-making power of the State.

In the Dakota case and the New York case it was held that the word "legislature" as used in Section 4, Article I, means the law-making power of the State. In the Minnesota case a memorandum by the Judge of the District Court and the opinion of the Supreme Court upon appeal are set out at length in a pamphlet filed here. The matter was argued at length with much plausibility, although there was a dissenting opinion.

Section 2, Article I, of the Federal Constitution provides for an apportionment of representatives among the several states, and that provision was modified by Section 2 of Amendment XIV adopted in 1866, which required representatives to be apportioned among the several states "according to their respective numbers counting the whole

number of persons in each state including Indians not taxed."

A congressional apportionment has followed each decennial census beginning with that of 1790 until that of 1910. The act following the first census allowed a representative in each state for every thirty-three thousand persons, making 105 representatives in all. The population basis of rep-
[fol. 62] resentation was increased from time to time and in 1930 a representative was allowed for each 47,000 persons. Notwithstanding the increase of population for each representative the number of members of Congress increased very rapidly and in 1860 it was thought necessary to limit the number of representatives to 241. That limit was extended from census to census until the Act of 1911 following the census of 1910 limited the number to 433, and provided that if the territories of Arizona and New Mexico should become states each would be entitled to one representative, which made the total 435 when those states came in. No reapportionment act followed the census of 1920. The Act of 1929 did not increase the number of representatives but apportioned the 435 members among the states according to the provision in Amendment XIV; the number of representatives from Missouri, formerly 16, was reduced to 13..

The act of 1842, following the census of 1840, for the first time provided that representatives should be elected by districts composed of contiguous territory, and the Act following the census of 1870 had the same provision with the addition that the districts should be as nearly as practicable equal in number of inhabitants. That act also provided that in states where there was an increased number of representatives the additional representatives should be elected at large, and other representatives entitled to be elected by the districts then provided for, until the legislature of the state might otherwise provide.

Similar provisions appeared in each subsequent apportionment act until that following the census of 1900, which further provided that if the number provided should in any state be less than it was before the whole number in such state should be elected at large, unless the legislature of such state should provide otherwise.

[fol. 63] The Act of 1911 contains the following pertinent sections:

"Sec. 3. (Election by districts.) That in each state entitled under this apportionment to more than one Representative, the Representatives to the sixty-third and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory, and containing, as nearly as practicable, an equal number of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative (37 Stat. L. 14).

"Sec. 4. (Redistricting States—Representatives at Large.) That in case of an increase in the number of Representatives in any State under this apportionment, such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the districts now prescribed by law until such State shall be redistricted in the manner provided by the laws thereof, and in accordance with the rules enumerated in section three of this Act; and if there be no change in the number of Representatives from a State, the Representatives thereof shall be elected from the districts now prescribed by law until such State shall be redistricted as herein prescribed (37 Stat. L. 14)."

These provisions, respondent claims, are still in force because enacted in accordance with Section 4, Article I, of the Constitution providing that "Congress may at any time by law make or alter" the regulations mentioned. Section 4 of that Act (1911) provides that in case of an increase of representatives "in any state" under this apportionment, such additional representatives may be elected by the State at large; "and the other representatives by the districts now prescribed by the laws thereof [fol. 64] and in accordance with the rules enumerated in Section 3 of this Act." The State of Missouri having no increase over the former apportionment comes under the head of "the other representatives." Its representatives are to be elected by the districts now prescribed by law until it shall be redistricted in the manner provided by the "laws thereof." Since the number of representatives for Missouri has been reduced the former districts no longer exist and representatives must be elected at large.

II. The above conclusion is on the assumption that the pertinent provisions of the Act of 1911 are still in force. In the Minnesota case it was held that sections 3 and 4 of that Act "expired by their own limitations," because the use of the words "under this apportionment" in both sections made them inapplicable to any other apportionment.

In the New York case the court reached a similar conclusion holding that the Act of 1911 was a temporary enactment because the language "under this apportionment" limited its operation. That Court differed from the Minnesota Court on the meaning of the word "legislature."

The Minnesota Court said of the apportionment acts:

"The history, nature, purpose and language of the several statutes disclose a clear intention on the part of Congress to have each of these apportionment acts replace its immediate predecessor. We believe it was the intention of Congress to have the Act of 1929 supersede and take the place of the entire statute of 1911."

If that is correct then there is no longer a requirement for congressional districts of any description. The Act of 1929 makes no mention of districts of contiguous territory and equal population. It does not mention districts or redistricting at all. The title of the Act discloses its purpose, "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of representatives in Congress." It establishes a permanent [fol. 65] method for census taking and apportionment.

Section 21 of the Act repeals the Act of 1902 establishing a permanent census office and acts amendatory thereof. It repeals all other laws or parts of laws "inconsistent with the provisions of this act."

The provisions of sections 3 and 4 of the Act of 1911 are not inconsistent with the Act of 1929. Neither are similar provisions in acts previous to the Act of 1911, relating to districts of contiguous territory of equal population and other regulations. Why did Congress think it necessary to repeal specifically other acts relating to a permanent census bureau and to apportionment, and to repeal other acts inconsistent with the Acts of 1929, unless it meant to leave in force other acts which were not inconsistent with it? If the Act of 1911 expired by its own limitation in the use of the words "under this apportionment" what of prior acts

containing the same provisions about congressional districts which did not have those terms? Would they be in force? Certainly not if each of those apportionment acts "replaced" its immediate predecessor as held by the Minnesota court. In Clause 1 of Section 22 of the Act of 1929 is mentioned the "method used in the last preceding apportionment." Does that mean merely the apportionment of representatives among the states, or does the "method" include redistricting the state which was included in the preceding apportionment? It seems to us that Congress did not intend by the Act of 1929 to abolish the requirement of congressional districts of contiguous territory of practically equal population and other provisions of previous acts. Nor do we think it was meant to repeal or supplant the other provisions of Sections 3 and 4 of the Act of 1911. Does the expression "under this apportionment" relate to every provision of Section 4? Or only to "such additional representatives" where the number for any state is increased?

[fol. 66] The requirement in Section 4, for the election of "other representatives by districts now prescribed by law until such state shall be redistricted in the manner provided by the laws thereof," applies to districts not affected by "this apportionment" and also to those in states where there was a decrease in the number of representatives. Are the provisions relating to those "other districts" limited to "this apportionment"? It is for the Federal Courts to construe the Act of 1911, so far as it may or may not affect later apportionments.

III. Whatever the U. S. Supreme Court may decide about continued validity or expiration of the Act of 1911 the terms of sections 3 and 4 are significant as a congressional interpretation of Section 4, Article I, of the Constitution. It recognizes the "manner" of redistricting in the state to be "as provided by the laws thereof." It refers to districts existing as "the districts now (August 8, 1911) prescribed by law," meaning of course, districts then existing by the laws of the several states. And that interpretation was recognized and approved by the Federal Supreme Court in the case of Davis v. Hildebrand, 241 U. S. 565, where the Act of 1911 came under consideration. The court there gave effect to the expression in the Act of 1911

"in the manner provided by the laws thereof," thereby giving judicial sanction to the congressional interpretation that the redistricting in a state should be made by the laws of the state. It went further and held that in Ohio the referendum was a part of the law-making power of the State, to be asserted in approving or disapproving a redistricting act by the legislature.

IV. It is contended by the respondent here that in the absence of any regulation by the Federal Constitution or Congress, each state had the inherent right to make its own districts for its congressional representatives on the theory that the powers of Congress and of the Federal government were delegated powers and all other powers were [fol. 67] reserved to the states. That principle does not apply here. A member of Congress is not a state officer. He does not represent the State. He represents the people of the United States in the district from which he is elected. He is a United States officer. The States were in existence before "We, the people of the United States" adopted the Constitution. Each state in turn chose to accept the limitations of its sovereignty imposed upon it when it came under the Constitution. Congressmen were the creation of the Constitution,—purely federal officers over which a state has no control. So far as the State has authority to divide the state into congressional districts it derives that authority from the Federal Constitution and the acts of Congress. Of course when the Constitution assigns to each state the right to elect representatives, if there is no provision as to how they are to be elected, by necessary implication a state would have the right to choose a method of carrying out the mandate.

V. In interpreting language used in a constitution or a statute the context is important. The word "legislature" means a political body of persons organized for the purpose of making laws. Appropriately it could not mean merely the members of that body. It cannot act as a legislature except in its official capacity. Its normal function is the enactment of laws. When assigned a certain duty that duty must be performed by the enactment of a law unless the context implies the exercise of some other function. What is the nature of the act to be performed? It is possible for the Federal Constitution or an act of Congress

to assign to a state legislature the performance of a ministerial act. From the context, from the act to be performed must be determined whether something other than the normal function is to be exercised.

As pointed out above, choosing a senator of the United States or ratifying a constitutional amendment requires no exercise of the law-making power.

[fol. 68] Compare those provisions with Section 4, Article I: "The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof."

The word "prescribe" as appropriate here, means "to lay down authoritatively a guide, direction or rule of action." That definition occurs in the dictionaries and in Corpus Juris.

"The time, places and manner" of holding elections the legislature must prescribe. The acts to be performed contemplate the establishment of a rule of action which can be accomplished only by that organized body in the enactment of a law. The "manner" of holding elections includes the qualifications of judges, the form of the ballots, and other details, all of which are fixed by law and can be provided only by establishing a rule, not merely for one election but for all elections. It may be said that prescribing those details is different from the forming of districts. The "manner of holding elections" includes everything that comes within the meaning of those words. It is the same legislature which performs all the acts constituting the "manner of holding elections." The word "legislature" can not mean one thing for one of such duties and another thing for the rest. It cannot mean the law-making power in prescribing some of the details in the manner of holding elections and the mere individual action of the members in prescribing others.

Further, dividing a state into political subdivisions, or creating territorial districts of any kind, is a legislative act. Haeussler v. Bates, 306 Mo. l. c. 411. This court said in State ex rel. v. Hitchcock, 241 Mo. l. c. 457, "that the districting of the State into legislative, senatorial, congressional and judicial districts *is* the exercise of legislative authority cannot be successfully questioned."

That case concerned the State Senatorial Districts and it might be claimed that the mention of congressional and

judicial districts is obiter. Yet the same principle would apply. It is a legislative act. That case was quoted and [fol. 69] approved in State ex rel Lashley v. Becker, 290 Mo. 560. While there were dissenting opinions as to the result in the latter case, the principle was not questioned that dividing the state into districts is a legislative act.

However, all doubt about the meaning of the word "legislature" used in Section 4, Article I of the Federal Constitution was set at rest by the United States Supreme Court, in Hawke v. Smith, 253 U. S. 221, where (l. c. 231) in discussing the difference between a ratification of a constitutional amendment and dividing a state into Congressional districts that court said:

"Article I, Section 4, plainly gives authority to the State to legislate within the limitations therein named. Such legislative action is entirely different from the requirement of the Constitution as to the expression of assent or dissent to the proposed amendment to the Constitution. In such expression no legislative action is authorized or required." citing Davis v. Hildebrand, supra.

Plainly, if the United States Supreme Court should affirm the judgment in the Minnesota case it would be because of the Minnesota court's interpretation of its own constitution.

Congress never passed an act redistricting the states for the representatives in Congress. It has recognized the division of the states into districts under Section 4, Article I, of the Federal Constitution as accomplished by the laws of such states.

The alternative writ is quashed.

J. T. White, Judge.

All concur.

[fol. 70] In Supreme Court of Missouri

[Title omitted]

Præcipe for Transcript of Record—Filed March 7, 1932.

To J. D. Allen, Clerk of the Supreme Court of the State of Missouri:

You are hereby requested to make a transcript of the record of this cause to be used in an application to the

Supreme Court of the United States for a writ of Certiorari in said cause; the transcript to consist of:

1. A copy of all of the minutes, entries, proceedings and orders of said Supreme Court of Missouri with reference to said cause.
2. Relator's amended petition and the alternative writ of mandamus.
3. Relator's Exhibit A.
4. Respondent's Return.
5. Respondent's Exhibit A.
6. Relator's motion for judgment on the pleadings.
7. The opinion of the Supreme Court of Missouri.
8. The final judgment and decision of the Supreme Court of Missouri and the date thereof.
9. A copy of this Præcipe.

[fol. 71] Please certify the same to the said Supreme Court of the United States under your hand as Clerk of the Supreme Court of Missouri and the seal of the Supreme Court of Missouri, in accordance with the rules of the Supreme Court of the United States and the laws of the United States applicable to such proceeding.

This Præcipe dated this 11th day of January, 1932.

Hyman G. Stein, Attorney for Relator.

(Address) 1102 Title Guaranty Building,
St. Louis, Missouri.

Respondent, this 12th day of January, 1932, acknowledges receipt of a copy of the foregoing præcipe, and the portions therein indicated being and comprising the entire record in the above entitled cause, respondent desires nothing further to be incorporated in the transcript thereof.

Stratton Shartel, Attorney General, Roy Wightman, L. Cunningham, Counsel for Respondent.

[fol. 71½] [File endorsement omitted.]

[fol. 72] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 73] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed March 22, 1932

The petition herein for a writ of certiorari to the Supreme Court of the State of Missouri is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Endorsed on cover: File No. 36,619. Missouri Supreme Court. Term No. 805. John J. Carroll, petitioner, vs. Charles U. Becker, as Secretary of State of the State of Missouri, Jefferson City, Missouri. Petition for a writ of certiorari and exhibit thereto. Filed March 18, 1932. File No. 36,619.